

18th CONGRESS, }
1st Session.

[91]

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

The information required by a resolution of the House of Representatives of the 4th inst.

IN RELATION TO A SUIT,

BROUGHT FOR THE

Recovery of the possession of a tract of land,

CALLED

The Pea Patch,

UPON WHICH

FORT DELAWARE IS SITUATED,

And in which the United States are interested; the sums of money which have been paid for defending said suit; to whom paid, &c. &c.

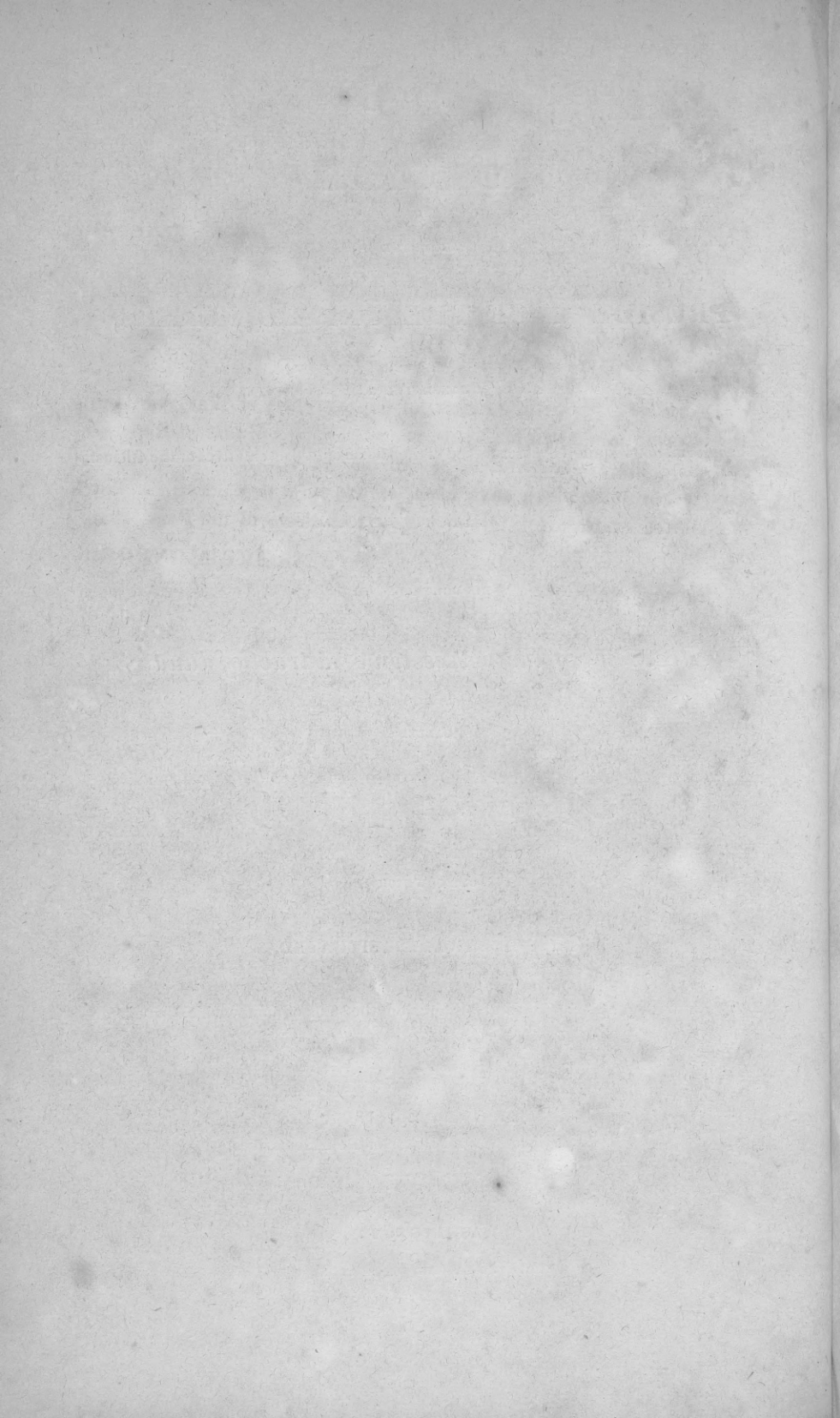
FEBRUARY 26, 1824.

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1824.

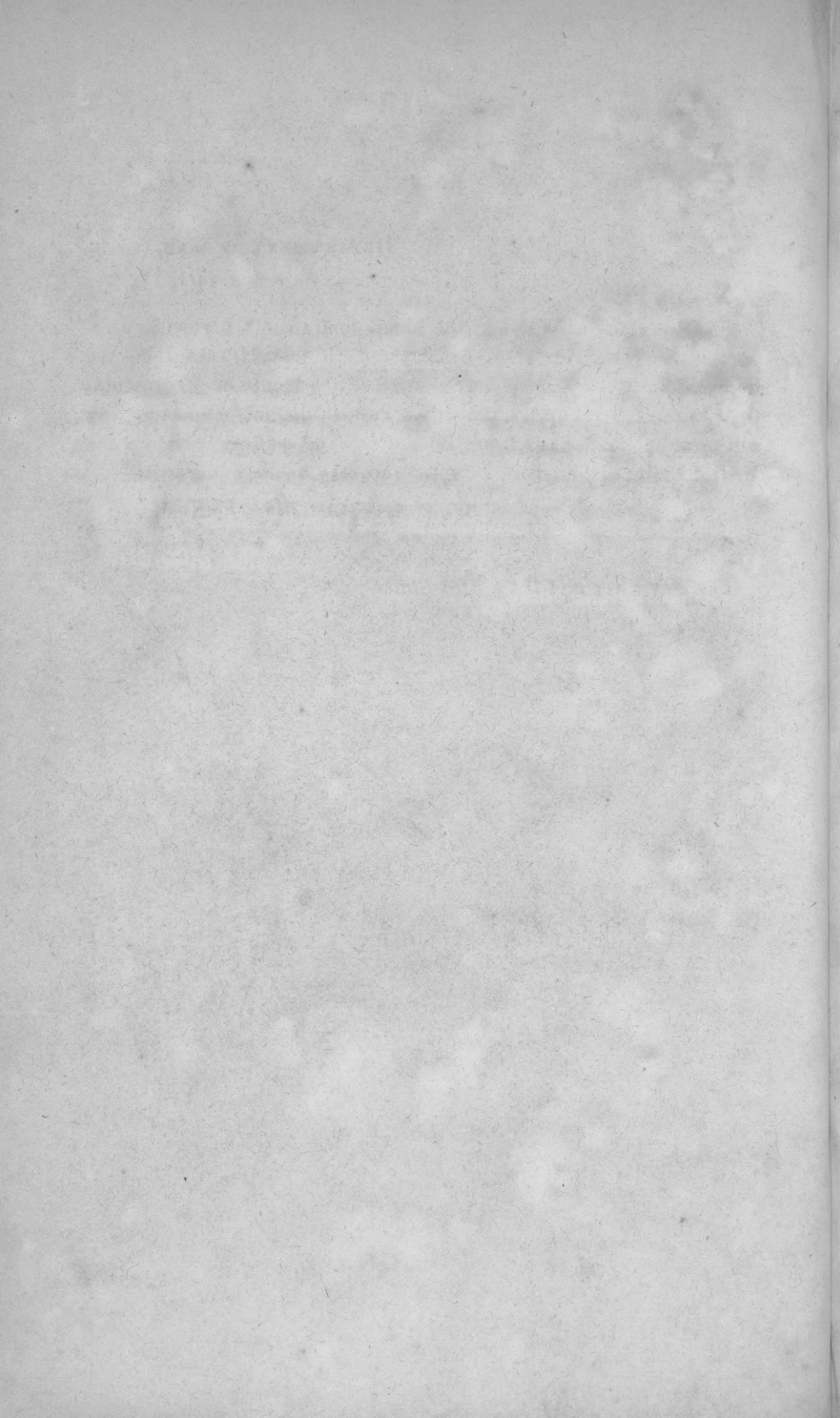


TO THE HOUSE OF REPRESENTATIVES:

I transmit, herewith, a Report of the Secretary of War, containing the information called for by a resolution of the House of Representatives of the United States, passed on the 4th instant, respecting any suit or suits which have been, or are now depending, in which the United States are interested for the recovery of the Pea Patch.

JAMES MONROE.

February 24th, 1824.



DEPARTMENT OF WAR,

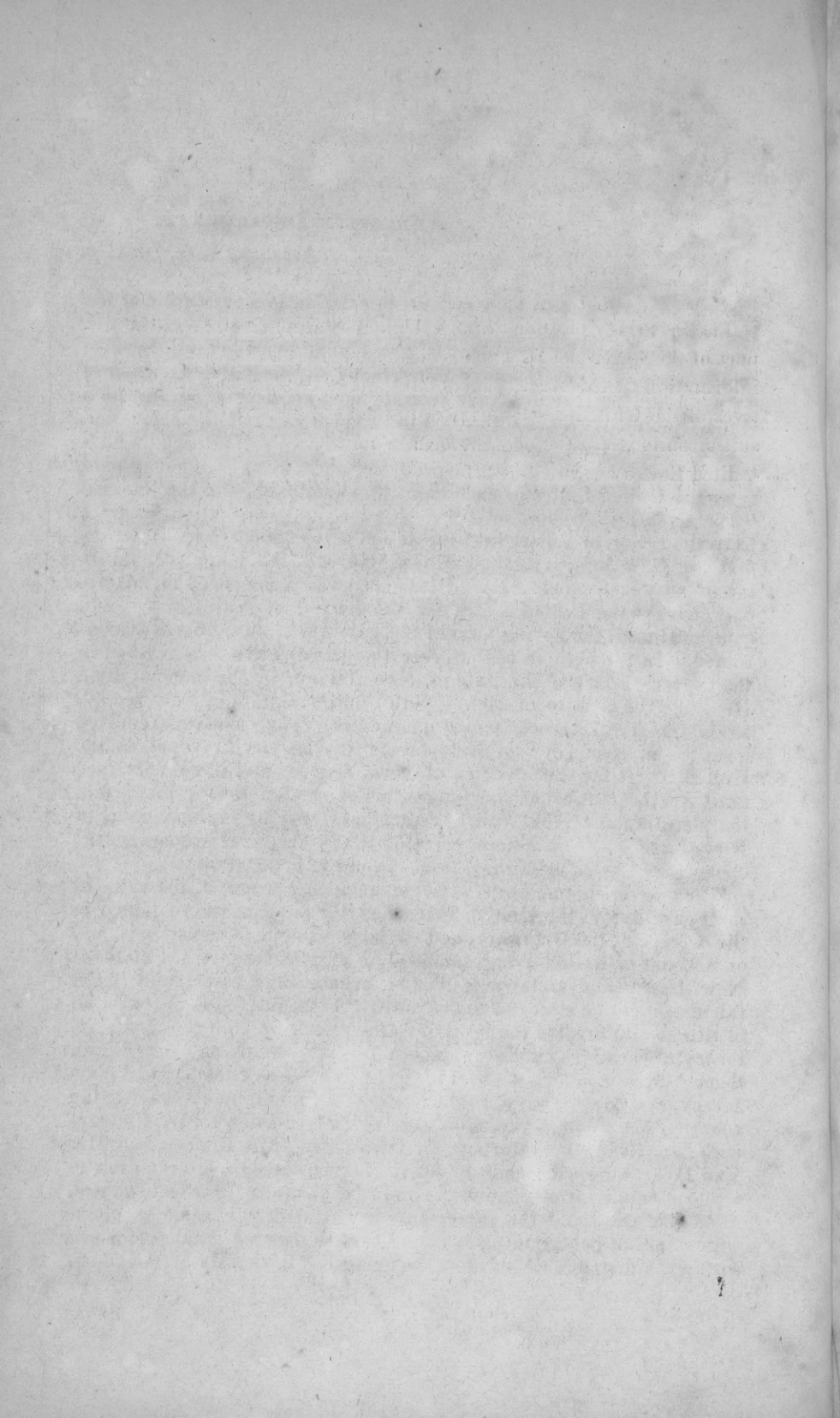
February 14th, 1824.

The Secretary of War has the honor to transmit, herewith, a report of the Chief Engineer, dated the 12th instant, containing the information called for by a resolution of the House of Representatives of the United States, passed on the 4th instant, respecting any suit or suits which have been, or are now depending, in which the United States are interested for the recovery of the Pea Patch.

Which is respectfully submitted,

J. C. CALHOUN.

The PRESIDENT *of the United States.*



ENGINEER DEPARTMENT,

February 12th, 1824.

SIR: In obedience to your orders, in relation to a resolution of the House of Representatives of the United States, passed on the 4th instant, in which the President of the United States is requested to communicate to that House "a statement shewing the situation of " any suit or suits which have been, or now are depending, in which " the United States are interested for the recovery of the possession " of a tract of land commonly called the Pea Patch, and on which " Fort Delaware is situated; specifying the amount of money paid " by the United States in each case; to whom paid, and the time respectively; by whom; on what account, and from what fund," I have the honor to report that an action of ejectment by Dr. Henry Gale, of New Jersey, against Major Babcock, the Engineer, superintending the erection of Fort Delaware, was commenced in the circuit court of the United States for the district of New Jersey, and continued until the spring term of the year 1822, when it was discontinued. In the autumn of that year the same action was revived in the supreme court of the state of New Jersey, in the name of John Den, (on the demise of Henry Gale) and the state of New Jersey, against Major Babcock before mentioned. The case was removed from the supreme court of New Jersey to the circuit court of the United States for the district of New Jersey, and there remained until April, 1823, when the judges, believing that it was not within the jurisdiction of that court, remanded it to the supreme court of New Jersey, where it now remains ready for trial whenever the counsel for the plaintiff shall think proper to bring it on.

The case being one of great importance on account of the value of the Pea Patch to the United States, as the only portion adapted to the defence of the Delaware, and the large sum expended upon it, and on account of its involving the question of title between the states of New Jersey and Delaware, it was proper that respectable legal talents should be engaged to defend it. Accordingly, as the question of title would involve the laws of both states, the United States' Attorney of each was employed, and able counsel was associated with them. Mr. Stockton with Mr. M'Ilvaine, the Attorney for New Jersey, and Mr. Rodney, in the first instance, and on his leaving the country, Mr. Van Dyke, who was recommended by Mr. Rodney, with Mr. Read, the Attorney for Delaware. Mr. Rodney and Mr. Van Dyke were each paid \$500, the services they were required to perform being out of their state, and at a distance from their homes. Mr. Read was paid the same, having performed the same services, which did not belong to his official duty, as they were not performed within his district. Mr. Stockton being in the vicinity of the court,

was paid \$100. Mr. M'Ilvaine was paid, as United States' Attorney, the expenses authorized by law; his account, amounting to \$209 62, having been submitted to, and approved by, the Attorney General of the United States. These payments were all made by warrants on the Treasury of the United States, with the exception of that to Mr. Stockton, which was by Major Babcock. They were for professional services, and were drawn from the appropriations for Fort Delaware and contingencies of fortifications. Mr. Rodney received his on the 8th of November, 1820; Mr. Read on the 11th of July, 1821; Mr. Stockton on the 11th of July, 1822; Mr. M'Ilvaine on the 12th of December, 1822; and Mr. Van Dyke on the 5th of January, 1824.

Respectfully submitted,

ALEXANDER MACOMB,

Major General, Chief Engineer.

The Hon. J. C. CALHOUN,
Secretary of War.